



MBI-0003

1635
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6-8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:) Art Unit: 1635
Zhang et al.) Examiner: J. Epps
Serial No: 09/394,519)
Filed: 9/13/99)
For: Plant Gene Sequences I)

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RESTRICTION/ELECTION

Assistant Commissioner of Patents and Trademarks
Patent and Trademark Office
Washington, D.C. 20231

Dear Sir:

The Examiner has restricted the claims to the invention of Group I: claims 1-6, 7-8 and 12-14 drawn to polynucleotides encoding polypeptides and methods of using said polynucleotides directed to a transformation method and transgenic plant and the invention of Group II: claims 9-11, 15-16 is directed to polypeptides and methods for using such polypeptides.

The Examiner states that because the polypeptides of Group II can be made by a materially different process and because polypeptides and polynucleotides are in different classifications the inventions of Group 1 and Group 2 are unrelated. However, Applicants contend that the inventions in Group I and Group II are related. The polynucleotide specifies an encoded polypeptide and the polypeptide is encoded by the polynucleotide. Thus, the Applicants elect the invention of Group I with traverse.

Furthermore the Examiner requests that the Applicants select 10 individual, independent and distinct nucleotide sequences. The Applicants have selected the following sequences for prosecution: SEQ ID No. 123, SEQ ID No. 125, SEQ ID No. 127, SEQ ID No. 43, SEQ ID No. 45, SEQ ID No. 47, SEQ ID No. 19, SEQ ID No. 37, SEQ ID No. 157 and SEQ ID No. 105. However, the Applicants make this election with traverse.

Please direct all telephone calls to Karen J. Guerrero at 510-264-0280.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Karen Guerrero', written over a horizontal line.

Karen Guerrero
Reg. No. 37,071

Date: May 29, 2001

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